

## COMMITTEE ON BILLS ON SECOND READING

**April 4, 2005**

**5:15 PM**

Chairman Lopez called the meeting to order.

The Clerk called the roll.

Present: Aldermen Lopez, Roy, Sysyn, DeVries, O'Neil

Messrs.: Tom Arnold, Leon LaFreniere, Bob MacKenzie, Tom Seigle,  
Frank Thomas

Chairman Lopez addressed item 3 of the agenda:

3. Ordinances:

“Amending Sections 33.024, 33.025 & 33.026 (Ski/Aquatics Maintenance Worker) of the Code of Ordinances of the City of Manchester.”

“Amending Sections 33.024, 33.025 & 33.026 (Waste Water Treatment Plant Operator Trainee) of the Code of Ordinances of the City of Manchester.”

Alderman O'Neil moved to recommend that the ordinances ought to pass.  
Alderman Sysyn duly seconded the motion. There being none opposed, the motion carried.

Chairman Lopez addressed item 4 of the agenda:

4. Ordinance:

“Amending Chapter 52: Sewers of the Code of Ordinances of the City of Manchester by amending Section 52.160(A)(2), Sewer Rental Charges and Section 52.161 Septage Service Charge by increasing the user charges and septage service charges in the City of Manchester.”

Alderman DeVries moved for discussion. Alderman Roy duly seconded the motion. There being none opposed, the motion carried.

Alderman DeVries stated just one question for EPD. I'm just questioning whether or not this rate increase will allow the Sewer Enterprise to quicken the pace of some of the new sewer installations/fill ins in the neighborhoods. If they could just address if this rate increase is...

Alderman O'Neil stated before Tom gets up there can Alderman DeVries...I'm not sure what she means by "fill-ins".

Alderman DeVries stated there are many places in the City where through the CSO project we've installed sewer systems but some of the neighborhoods that are directly surrounding the sewer system, some of them surrounded by city sewers were left unattended, still on septic. So, I consider that a "fill-in" of an area that has sewer in place and just wondering if the rate increase took an allowance to help pay some of that project alone without any guarantees of when that project will happen and will it be hastened.

Mr. Tom Seigle, Chief Sanitary Engineer, stated to answer your question that specific rate increase is not intended to change anything on our schedule. We have a schedule of building the Cohas Interceptor. As the Cohas Interceptor gets built spurs then will be built off the Cohas Interceptor. As you know, we finished Phase I we tied in Crystal Lake, we're working on South Mammoth Road (Phases I, II & III). This coming year we're going to construct the Cohas Interceptor Phase II Contract 1 and as we get those done then we'll spur off of those so this will not directly impact that. What we are going to impact the big thing is the Valley Cemetery Project...we think that that needs to get going so this includes the design funds to do something with that line through the cemetery that causes all of the flooding.

Alderman DeVries asked will it be likely that we will see sometime in the future or the near future a rate increase for all the general users that might address some of those issues as well as keeping pace with the other new projects.

Mr. Seigle replied yes. We're only asking for one rate increase but in our long-range planning there will be a series of rate increases to cover the various CSO projects to cover the various interceptor projects and then the spurs off of those projects and also to run the treatment plant.

Alderman DeVries asked is it possible for you to give us some idea of the anticipated rate increases so that we might have a better discussion if we are looking to add a penny so that the Enterprise System can go ahead with some of what I call the “fill-in” of the areas that have been missed with the sewer installation.

Mr. Seigle stated I have a little handout if the Committee would like it. It might be easier to follow along that way. This is from the presentation we had given to the Committee on Accounts and if you look at the first page after the title page it says “User Rate Estimate” and that’s pretty much what we’re looking at until up to 2012, but I just want to make it clear that we’re only asking for the one rate increase at this time because we never know what kind of grant we may get from the federal government or the state that may allow us to defer some of these rate increases.

Alderman DeVries stated so if I’m interpreting the user rate estimate on the second page of your handout it looks like the next anticipated rate increase might be in ’08.

Mr. Seigle stated that is correct.

Alderman DeVries stated I’m certainly...as you can tell I’m interested in seeing those additional neighborhoods receive those sewers in a more timely fashion and I think that’s where I’m headed that throughout it’s the City that there have been pockets left out of the sewer installation and it just seems only fair that in somewhat of a timely fashion we address those and I understand you have a host of other constraints that you operate under with the Enterprise, it’s just a comment.

Alderman O’Neil stated Tom would the issue that was Greenwood and I can’t think of the other street out there and Island Pond...is that a good example of even though the intent was to do Greenwood and Shaunna Court it really would go nowhere until you built out Island Pond, the pump station...is that part of this phasing?

Mr. Seigle replied it really couldn’t go anywhere until we built Phase I of the Cohas Brook Interceptor and that’s been done so then we split the off fuse, if you will, until Phase II, Phase III.

Alderman O’Neil stated so you’re going to get into some of these neighborhoods that are really two or three part scenarios to get there.

Mr. Seigle stated absolutely.

Chairman Lopez in reference to the Valley Street Cemetery stated I've been approached by people who think that this is going to happen right away. Could you give me some sense about the Valley Street Cemetery.

Mr. Seigle stated the only thing we really have authority to do at this time is the design. If we get the rate increase we're going to hire an engineering firm to proceed with the design and we think that that will take about a year. After we do the design we'll have a good cost estimate. Right now, we have a planning level cost estimate and then looking at the finances we would then come back to the CIP Committee and request the rest of it. Anticipated that we would keep this going once we got it started.

Alderman Roy stated I appreciated the first presentation at the Committee on Accounts but one of the graphs...looking at this current fiscal year on page 3 where you do your revenues and expenses...first, I find those upside down. Your expenses far exceed your revenues by millions of dollars so with a rate increase you seem to bring it a little bit closer but your projecting out through 2010 that you'll be in a negative...is that labeled correctly?

Mr. Seigle replied yes they are labeled correctly. What it shows is that...what you see are our expenses have outpaced our revenues. The reason for that is that we had built up a fairly large surplus, so we've been drawing down the surplus, trying to keep the rates steady and our target was that at some point we would draw the surplus down to a manageable level that we don't want to get below and then the revenues and the expenses would kind of match and that's what we're projecting out towards 2012-13 and that's based on the other chart that you saw with projected rate increases.

Alderman Roy stated just to editorialize my viewpoint. I as a City don't think our City government is putting enough into our infrastructure. Having daily conversations with our Highway Department and by daily sometimes it's three and four daily while I do appreciate you're trying to do your best and keep the change low I just have a fear that it's going to cost us more in the long run instead of going for a larger increase today, fixing some of the problems that Aldermen DeVries, O'Neil and other are aware of and I think I have them in my ward, I think we all have problems in our wards. When you look at toward the end of what you gave us at where Manchester comes in at if we were to keep the average bill under \$300 we'd still be competitive with Nashua and some of our competing towns far less than Portsmouth, Rochester, Claremont...places out in the Seacoast...I must rather see us go with one larger step now and take a commitment to our infrastructure.

Mr. Seigle stated it's really the Committee's option, I don't think that's necessary at this point. If you look toward the end of this presentation you can see that we have a lot of expenditure slated. I don't know that we can do them any faster than we're doing them I guess and the other thing I would caution the Board is that there is a Phase II CSO looming out there that we have to address in 2010 which we haven't included in any of these rate estimates because we don't know at this time what that is. So, it would be my recommendation that we take it slow and stay on our projected schedule and it's not really slow. If you've been on the west side you'd know we're tearing the place apart and we're going to be starting somewhere on the east side this year also. So, that is all part of our CSO Program.

Alderman O'Neil stated just correct me if I'm wrong on this. The funding through the Enterprise will pay for the separation but once the system is built out as sewer versus storm water. Storm water isn't really part of the Enterprise is it?

Mr. Seigle replied that's correct. What we're doing...

Alderman O'Neil stated I guess my point is that some of the sections of the City that have been sewered for years, some of these improvements that are needed really can't be paid for by the Enterprise.

Mr. Seigle stated if it's strictly storm water it can't be paid for through...

Alderman O'Neil stated and that is where many of our issues are, I think, throughout the City. So, we need to be not cautious of that but I agree with Alderman Roy's point that we're not committing enough funds to that but we have to be careful that they may not all be able to come out of the Enterprise.

Mr. Seigle stated that's correct.

Alderman Roy stated looking at the Enterprise and looking at the fact that your revenues don't meet your expenses we're far less than our competing towns and I'm glad for that, I think that's a credit to our management. If we were to change or this may be a question for the Solicitor more so than you Tom...what would it take to change our Enterprise that we could address some of our storm water issues as well as our sewer issues?

Mr. Seigle replied we're governed right now on the sewer issue by RSA 149, which basically limits what we can spend on waste water type funds. If you want to establish a storm water enterprise then that is something you would want to talk to Tom Clark about. I'm not sure there's legislation that allows that.

Alderman Roy stated a question for the Solicitor, Mr. Chairman. Tom, could you weigh in on what we could do locally.

Deputy City Solicitor Arnold stated as Mr. Seigle points out the sewer charges are governed by State Statute...what you can charge and expend on. In terms of waste water I quite frankly would have to look at the statutes to see if there are any controlling provisions. If not, you may be able to set up an enterprise fund much like the other enterprise funds in the City I just don't know where the revenues for that enterprise fund would come from.

Chairman Lopes stated I think the best thing to do is to try and do your best with what you have because it's all taxpayers money in the end anyway.

Mr. Seigle stated that's true.

Alderman DeVries moved to recommend that the Ordinance Amending Chapter 52 ought to pass. Alderman O'Neil duly seconded the motion. There being none opposed, the motion carried.

Chairman Lopez addressed item 5 of the agenda:

5. Ordinance:

“Amending Chapter 71: Snow Emergency Regulations, Sections 71.03 and 71.99 of the Code of Ordinances of the City of Manchester increasing the penalties for violation of snow emergency winter parking.”

Alderman O'Neil moved to recommend that Ordinance Amending Chapter 71 ought to pass. Alderman DeVries duly seconded the motion.

Chairman Lopez stated just for the public this ordinance increases the snow emergency rate from \$25.00 to \$75.00.

Alderman O'Neil stated for a car that does not get towed during a snow emergency situation.

Chairman Roy stated I have a question for the Solicitor. This ordinance takes effect upon its passage I'm assuming this will go in front of the full Board at what time.

Chairman Lopez replied at the next Board meeting. We're not going to have any snow so we're not going to have to worry about it.

Alderman Roy stated we've always been hit with that late April or April snowstorm and I'd hate to have people get this for one storm. I would like to have some education time and let our local paper know and get the word out that the rates/fees are going up for the penalties.

Chairman Lopez called for a vote on the motion. There being none opposed, the motion carried.

Chairman Lopez addressed item 6 of the agenda:

6. Ordinance to replace Chapter 39: Procurement Code.  
(*Note: communication from the Public Works Director dated 02/02/2005 submitting a minor revision on Page 15 of 19, in Section VII.A – SPECIALIZED PROCUREMENT ACTIONS.*)

Chairman Lopez stated I did have a call from Tom Clark and Mr. Dillon and Kevin Clougherty was here before the meeting and he told me there was no change to this and I'd like to have the City Solicitor because I think he talked to Tom Clark in reference to a couple of words here.

Deputy City Solicitor Arnold stated if you're referring to Mr. Clougherty's concerns I spoke to him before the meeting. He had spoken to Tom Clark earlier in the day based on that conversation. He felt satisfied with the ordinance in its present form.

Chairman Lopez stated the only other thing from Mr. Thomas in reference to your letter we want to strike the words "*and/or*" is that correct?

Mr. Frank Thomas, Public Works Director, stated yes. We want "*and/or*" but it's basically just going to be *the Board of Mayor and Aldermen* who will be able to grant a waiver.

Alderman O'Neil asked where are you?

Chairman Lopez replied in the document from Frank Thomas dated February 2<sup>nd</sup>...in the bottom paragraph where the draft provided waivers be granted the Board of Mayor and Aldermen and/or...*and/or* is to be stricken out is that correct?

Mr. Thomas replied the correct wording should be this if you allow me to read it. Under *Section VII. A – Specialized Procurement Actions*...the second line should be changed to read as follows: “*Exceptions may only be granted with a written waiver from the Board of Mayor and Aldermen.*”

Chairman Lopez asked could you give that number again, please?

Mr. Thomas reiterated it would be on page 15 of the Procurement Code it's under *Section VII. A – Specialized Procurement Actions*...first paragraph, second line... and the second line should read... “*Exceptions may only be granted with a written waiver from the Board of Mayor and Aldermen.*” I believe in my discussions with the Finance Director he is agreeing with that wording along with the City Solicitor's office who are also in concurrence with the wording. To give you a little explanation originally when I had drafted this up it had referred to the Board of Mayor and Alderman and/or the department that controls the special procurements like life insurance, accounting services...we determined that and/or doesn't make sense, there should be just one party. Obviously, the Board of Mayor and Aldermen has the power to waive anything in this Procurement Code and we felt that a department that normally handles these specialized procurements if there was going to be an action by a committee the full Board of Mayor and Aldermen granting a waiver...that department would be able to bring their concerns to the Board before the Board voted. So, that's why we've changed that wording to what I had just noted.

Chairman Lopez stated the City Solicitor agrees with that.

Mr. Thomas replied yes.

Deputy City Solicitor Arnold stated as I said I had spoken to Kevin Clougherty who felt satisfied with that change and we just didn't think it was wise to have a department head able to veto an action of the Board.

Alderman O'Neil stated you mentioned the Airport had something is that cleared up?

Chairman Lopez stated as Mr. Thomas and Mr. Arnold have indicated that was the issue and it's all solved between all parties from what I understand.

Mr. Thomas stated that is correct.



Alderman O'Neil stated looking at the definitions and I only picked this up looking at it tonight in front of me...the type of project we did...I'm on page 4 of 19, number 17. *Design-Build-Operate-Maintain*...is what we did with the schools defined here.

Mr. Thomas replied we have all of those types of methods. We initially put out the School project as a design/build/finance but ultimately it came down to a design/build.

Alderman O'Neil stated so we don't need a specific description of this design/build/finance or that could fit into the definition in number 16.

Mr. Thomas stated we have those all listed under a section in the back...starting on page 16...the *Procurement Methods*...we have them all listed there...*Design-Build, Operating and Maintenance, Design-Build-Operate-Maintain, Design-Build-Finance-Operate*, etc.

Alderman O'Neil stated I guess my question is if we had a piece we didn't want operations as part of the procurement could we do design-build-finance as part of it.

Mr. Thomas replied yes.

Alderman O'Neil stated we could just remove that section in the procurement for that particular project. Thank you.

Alderman O'Neil moved to amend the proposed ordinance to replace Chapter 39 as outlined. Alderman DeVries duly seconded the motion. There being none opposed, the motion carried.

Alderman Roy moved that the ordinance as amended ought to pass. Alderman DeVries duly seconded the motion. There being none opposed the motion carried.

## **TABLED ITEMS**

7. Ordinance:

“Amending the Code of Ordinances of the City of Manchester by creating a new section within Chapter 111: Amusements establishing regulations for noise activities conducted in outdoor concert venues throughout the city and inserting new penalties in Section 111.99: Penalty to enforce these regulations.”

This item remained tabled.

8. Ordinance:

“Amending the code of Ordinances of the City of Manchester by repealing Chapter 94: Noise Regulations in its entirety and inserting a new Chapter 94: Noise Regulations.”

The item remained tabled.

9. Shoreland Protection Act.

On motion of Alderman Roy, duly seconded by Alderman DeVries, it was voted to remove item 9 from the table for discussion.

Mr. Robert MacKenzie, Director of Planning, stated I know it's been a little while since this issue has been brought up by Alderman DeVries. One of my staff has looked more carefully into what other communities have done in terms of adopting their own Shoreland Protection Act. We've also made sure we understood about the implications for Manchester and I think the basic conclusion was that the Shoreland Protection Act is enforceable in Manchester and local officials are required to enforce it. I know at the Planning Department level we have, in a couple of cases, enforced it. The Urban Ponds person has enforced the regulations a couple of times as has the Building Department. The question comes up can Manchester adopt the Shoreland Protection Act. It can adopt something that's stricter and there have been a number of communities in this state that have adopted stricter regulations. Most of those are smaller communities, there aren't any large communities that have adopted stricter regulations. But, generally, the stricter regulations would fall into two classes. The first class is geographic area. Right now, we regulate under the Shoreland Protection Act 8 of the 9 lakes and ponds in the City and the 3 largest rivers in the City. But, we don't regulate

smaller streams like Cemetery Brook, Black Brook...so, the City could consider that. The other is more detailed regulations in terms of distance setback. For example, one community...the State Statute says you cannot use artificial fertilizers within 25 feet of a water body. One community went in and said you cannot put on fertilizers within 250 feet of a water body. So, those are the areas that the City could look at if it wanted to be stricter. Again, there haven't been any large urban areas that have adopted regulations and I think I'll pause for questions.

Chairman Lopez stated Alderman DeVries had a question, which is the reason why this issue was sent here. Did he satisfy your comment?

Alderman DeVries replied not yet, I do have a few questions. When we discussed this at the full Board there were some questions with the distance setbacks and if I understand what you just said it's your understanding we could only set additional setbacks as it relates to artificial fertilizers.

Mr. MacKenzie replied no. The City could adopt stricter regulations than the State's for setback of buildings or the parking lots or other features, it could be stricter.

Alderman DeVries asked are we allowed to specify which bodies of water would fall under the additional setbacks or would it have to be all inclusive of the 8 of the 9 and the 3 largest rivers if we adopted new setbacks?

Mr. MacKenzie replied you could not exclude any of the existing major ones but the City could add to those.

Alderman DeVries stated what we do for one area has to be done for all areas identical.

Mr. MacKenzie replied yes.

Alderman O'Neil asked if we do anything with this is this going to the full Board tomorrow night?

Chairman Lopez replied no.

Alderman O'Neil stated Bob you mentioned that your department and I don't know if you're including Urban Ponds because technically they're part of your department as well as Building has enforced this. Could you provide, at some point, just a list of where it was enforced because I don't have any knowledge of

that so I'm trying to think where...were they all along the Merrimack River, were they at different places...I don't think we need to get into it tonight but that would be helpful.

Mr. MacKenzie stated just to give you the largest example...there was a proposal for an office building just on the other side of the Amoskeag Bridge and now there's some condos being built there...but, our staff reviewed that with the State people and they found that really what they were trying to do there was too large, it was not under the regulations of the State, so that was ultimately just withdrawn.

Alderman O'Neil stated you mentioned 8 or 9 lakes or ponds and the 3 largest rivers...are those defined by statute.

Mr. MacKenzie stated the statutes say all fourth order or higher rivers and streams and great ponds. Great ponds are any pond or lake over 10 acres.

Alderman O'Neil asked could you just as you are giving examples of these tonight maybe provide examples of what fits the definition and maybe just a couple that don't just to give us some sense. I think that would be helpful. What would happen with somebody wanting to do an improvement in one of the mill buildings along the river?

Mr. MacKenzie stated that's an existing situation. They could not right now extend the building any closer to the river. I don't see how they could get any closer to the river anyway.

Alderman O'Neil asked what about Cote Lane maybe...could they put a connector between those buildings...would that be permissible going forward?

Mr. MacKenzie replied again if it's within the setback distances it would not be a problem.

Alderman O'Neil asked can you picture the one I'm talking about?

Mr. MacKenzie replied yes I know which one you're talking about.

Alderman O'Neil stated the one that's all glass or all Plexiglas, right on ground level. So that...without knowing the details, may or may not be allowed under this.

Mr. MacKenzie stated I don't believe that going forward that that would be allowable that particular connector under these regulations...that would be within 50 feet of the river because the river edges right there.

Alderman O'Neil asked who would grant an exception if you could, is it the ZBA?

Mr. MacKenzie replied the ZBA cannot exceptions to these it would have to be the State DES and frankly they have only a very limited situation. The City can ask the State to exempt a section of what is called "urban waterfront" and the Board has discussed that option when the Riverfront project came up. Ultimately, the Riverfront project...the stadium and the housing...found ways to meet the setback requirements. But, if we were ultimately looking to build a riverwalk all along the river in front of the mill buildings we would either have to seek an exception or get a waiver for this larger area.

Alderman O'Neil stated that could be an issue for us.

Mr. MacKenzie replied yes.

Chairman Lopez asked what about balconies like Public Service?

Mr. MacKenzie replied balconies are above a certain height, are not classified as encroaching into that area.

Alderman DeVries stated I certainly have interest in working through this a little bit more and as you indicated it's a process we should look at carefully. I'd be interested in developing the exemption or potential exemption for the urban waterfront area if you felt that this is something that we should pursue but maybe increase our setback requirements on some of the pond areas because we know most of our ponds what kills them first is the development that takes place very close to the shoreline. I'm very interested in some additional enforcement for the artificial fertilizers and the reason that I'm interested in that is that today the only...when subdivisions occur very close to watersheds there will be often stipulated by conservation commissions a deed requirement that the exemption...that the homeowner will not have the ability to apply artificial fertilizers. As you can imagine it's next to impossible to enforce. I'm not saying that this will make it that much easier. Artificial fertilizers are the first thing that cause the algae and kill our ponds but it would give a little bit more teeth to the ordinance if we have real issues with that and we notice that the algae production and some of the other resulting pond effects are occurring in a particular pond we will have an enforcement that we can use for education and to let homeowners know that they are killing their ponds in their own backyards. It's an education

tool but it also allows our agencies to interact at a higher level than can occur today. I am interested in feedback from your agency because I know you've dealt with this far more than I have. I'm not looking to stop dead all construction projects so I think we need to have that give and take here in committee. If you think we're headed in the wrong direction with some of these setbacks because we are an urban environment I'd like to hear that from you but if you think we're missing a setback that would help us save some of the ponds that are highly usable for our neighborhoods I'd like to protect. Do we have one more presentation back from your department?

Mr. MacKenzie stated what we can do is present perhaps look at some options. Again, the only thing that makes me nervous about once we go over the strictness of the State Statutes it becomes fully our responsibility for enforcing. Fertilizer... you hit on the key word there. I think fertilizing is as much an educational issue as an enforcement one. It would be very, very difficult to enforce that particular item for all the riverfront property. But, education I think would be critical in that case to make that work...how else would you enforce it.

Chairman Lopez stated I understand the concerns but is there something on the books...this has been kicked around now since last year...do we have something on the books...this is updating everything that we have on the shoreland.

Mr. MacKenzie stated this is updating everything that you have. There are no permits that are being held or stopped because of your review of this. This is kind of a proactive looking of where the City would like to be two or three years down the line.

Chairman Lopez asked are we holding it up, can we get that information later or is that part of the crucial thing on approving something like this? I ask the Committee what is your desire?

Alderman DeVries stated I think I might be able to clarify that because we're not holding anything up as I understand it because this is State Statute that is already in force in the City of Manchester. I think two months back I had asked for a presentation to work through the education piece because I find as I work through my two urban ponds in Ward 8 that many of my homeowners aren't aware of some of the issues, some of the limitations they might have on their own properties with changing the grade of soils near water bodies or cutting down trees...there are regulations that DES enforces today. But, we made the presentation to the full Board as an educational tool trying to help homeowners at home hear what Shoreland Protection is so that they think twice before they make changes to their properties if they live on one of the dedicated water bodies which

is as Mr. MacKenzie said is 8 of our 9 ponds in the City as well as the 3 major rivers in the City. As a result of that I had asked if the Planning Department would look to see if there was any additional enforcement tools that we should adopt because many of our surrounding towns have adopted above and beyond the State Statutes to better protect their water bodies so that they are there a hundred years from now as usable as they are today.

Chairman Lopez asked did I understand you correctly, Mr. MacKenzie, that if we put more restrictions...would you go over that again...if we put more restrictions in addition to the RSA then what happens?

Mr. MacKenzie replied then we become solely responsible for enforcement action but only related to that provision that we...for example, if we said no fertilizer use within 100 feet from the water body the City becomes enforceable, it's no longer the State. If, for example, we said we wanted to add Black Brook to the list again the City would be solely responsible for enforcing that area not the State.

Alderman O'Neil stated I think this is a very...this is a big issue because I think we almost need to treat each body of water...there's separate issues with each body of water...the Merrimack River is different than Crystal, it's different than Livingston Pond...for me, we have a lot of documentation from NHDES and it would almost be good if we did have a workshop on this where we could take each body and some of the things that affect...it's single-family homes that affect Crystal Lake but is it a combination of single-family homes in the commercial strip of Daniel Webster that might affect Livingston or McQuesten Pond over in southwest Manchester, the Merrimack River, etc. I don't even know is Lake Massabesic part of this.

Mr. MacKenzie replied yes that qualifies.

Alderman O'Neil stated but that's separate because it's our water supply...so, I almost think that we...

Mr. MacKenzie interjected then again the stream going in Dorrs Pond, for example, is not protected under this.

Alderman O'Neil stated in my opinion it would be whether it's this Committee or the Board as a whole that maybe we have a little workshop either as an official meeting and work through each body and how different aspects of this could be enforced. My second impression would be just if Bob...I know he's going to

provide for us a list of what is included by law, what isn't included that we could include but also are there three different local agencies that have jurisdictions... when you mentioned Planning Department...was Urban Ponds part of that?

Mr. MacKenzie replied Urban Ponds is part of that.

Alderman O'Neil stated again not for tonight to keep us here but what gives Urban Ponds the jurisdiction over the Building Department or do they both have jurisdiction.

Mr. MacKenzie stated technically all local officials are suppose to enforce if they find out or hear complaints. Typically it would be only Health Department relating to septic systems, Building Department and probably the Urban Ponds person would be the three main enforcing agencies.

Alderman O'Neil stated so just in the particular case and I know Leon is here...in the particular case where you mentioned there was a couple, it's just his department that happened to be the one that discovered the issue and enforcement in the other cases was the Urban Ponds Director.

Mr. MacKenzie stated yes.

Alderman Roy stated Bob if you look at if we make the regulations more stringent you said we'd be more responsible for the enforcement does that include the initial...right now there is a 50 foot setback on fertilizers. If we make that 250 will the State still enforce that 50-foot and we're responsible for the 200 feet or do we pick up the whole 250 feet?

Mr. MacKenzie replied I'm not quite sure of the answer to that but I could look into it.

Alderman Roy stated as we look to revise or make more stringent I don't want to take away enforcement resources which may hurt us in the long run the way the City versus the State operates so I think we should take this fairly slowly but there are a lot of areas as you just mentioned the brook that runs into Dorrs Pond we've taken a lot of measures to protect that but the brook that runs into it is about three feet deep right now running as hard as could be affecting the pond and every resident in that area.

Mr. MacKenzie stated it might be useful if I could do up a specific city-wide map that showed the ones that are currently protected and basically all the streams and ponds that are not, maybe development around them.



Chairman Lopez stated I have a question and maybe Leon you can answer this with Mr. MacKenzie. Does this prevent...and I ask you this question because we have a situation at seven o'clock tonight on Candia Road in cutting down all of those trees by a body of water. Can somebody that owns any property in the City of Manchester just cut down trees?

Mr. LaFreniere replied right now we don't have anything in our local Zoning Ordinance that speaks directly to vegetation and that sort of thing with regard to the proximity of water bodies and so forth. In this case we did take a look as to whether that project would be subject to any local regulations with regard to how the property was used, the function of the site such that the contractors acted for the State and was therefore exempt from local zonings. But, with regard to our current structure of our regulations we don't have anything regarding cutting of trees down.

Chairman Lopez asked how could we look in that area to solve that if, for example, we're at one of the bodies of water and a homeowner cut down all of his trees...is there a way to prevent that from happening if he has to follow some type or ordinance?

Mr. MacKenzie replied there's never quite a way to prevent it. If someone just decides to go out and cut trees. Again, part of it is education. The City can enforce the State regulations so there's limited tree cutting within 150 feet of a river or pond, at least the ones that are classified here. Again, the one area that was recently clear cut up near Golden Rod Restaurant...that one is probably outside the limits, that one is outside the limits of the State because it's a ways away from the main body of Lake Massabesic. I'm not sure if that's the one that someone was referring to.

Chairman Lopez stated right.

Mr. MacKenzie stated so to some extent we have the State regulations within 150 feet of water bodies but not all water bodies. I think that's probably something for you to consider.

Chairman Lopez asked what are your wishes here?

Alderman O'Neil stated I just need to...I may have misspoken earlier...Dorris Pond at Livingston Park...I might have called it Livingston Pond but I should know better I skated there as a kid, a senior moment I guess.

Alderman DeVries stated I would like to request of the Planning Director that we continue to let this evolve and to as Alderman O'Neil suggested a workshop that maybe this Committee or this Committee and others can work at with your staff to see what you're advising, where we might tweak the Shoreland Protection Act to better work for us and our urban environment and just leave it like that for now.

Alderman DeVries moved to table pending the Planning Director's advice.

Alderman O'Neil stated it would be helpful to me if we could somehow bring these two examples of how it affects specific bodies of water. I look at this and I really kind of think in my mind how does it affect the Merrimack, how does it affect Dorrs Pond, how does it affect Crystal Lake, etc. and I think it would be good if we could work through some of these examples because each body of water is so different in the City; that would be helpful to me.

Alderman Roy duly seconded the motion to table. There being none opposed, the motion carried.

There being no further business to come before the Committee, on motion of Alderman Roy, duly seconded by Alderman Sysyn, it was voted to adjourn.

A True Record. Attest.

Clerk of Committee